

# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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April 19, 2013

**TO:** Commissioners and Alternates

**FROM:** Lawrence Goldzband, Executive Director (415/352-3653 [larryg@bcdc.ca.gov](mailto:larryg@bcdc.ca.gov))  
Steve Goldbeck, Chief Deputy Director (415/352-3611 [steveg@bcdc.ca.gov](mailto:steveg@bcdc.ca.gov))

**SUBJECT: Staff Report on Pending Legislation – SB 122**  
(For Commission consideration on May 2, 2013)

## Summary and Recommendations

**Senate Bill 122** (attached) by Assembly Member Lieu would extend The Vessel Turn-In Program (VTIP), which provides an alternative for boat owners to surrender an unwanted recreational vessel to participating public local agencies. As discussed at the March 21, 2013 Commission briefing on abandoned vessels, the VTIP is a cost effective approach to reducing the number of abandoned vessels in the Bay. The staff recommends that the Commission support this bill.

## Background

The VTIP was established by Assembly Bill (AB) 166 (Chapter 416, Statutes 2009) and became effective January 1, 2010. The program provides grants to public local agencies to administer within their jurisdiction a turn-in program for boat owners to surrender an unwanted recreational vessel. Funding for VTIP comes from the Abandoned Watercraft Abatement Fund (AWAF), but is separate from the existing AWAF program and receives separate budget authority. Participation in the current AWAF program is not required to participate in VTIP.

Unless further legislation extends the VTIP, the program will sunset on January 1, 2014. SB 122, introduced by Senator Ted Lieu, would, among other things, remove the sunset provision for the program and remove obsolete reporting provisions.

## Analysis

California has the second largest boating population in the United States. While many of these boaters live on the coast, many also live around San Francisco Bay. The majority of boat owners are responsible about vessel sale and disposal. However, some boaters do abandon their boats, creating an abandoned vessel problem that is both expensive to manage and which adversely impacts the marine environment. Since 1997, 1,582 vessels have been removed from the State's waterways with AWAF. The total expense has been close to \$5 million at an average cost of \$3,100 per vessel.



*Making San Francisco Bay Better*

While this program is successful, the Department of Boating and Waterways (DBW) proactively developed and implemented VTIP, which complements and has proven to be even more effective than AWAFF. In the last three years the AWAFF program has spent \$1 million while the VTIP has spent only \$267,000. With nearly four times more funding, AWAFF funded removal of 251 hazards at an average cost of \$4,200 per vessel, and this does not reflect the costs that agencies have to expend to identify, tag, handle, store and remove vessels and contact the owners. With approximately one quarter as much funding, VTIP funded removal of 165 hazards at an average cost of \$1,600 per vessel. In other words, VTIP removed only 35% fewer boats with 62% less money. Participating agencies have indicated that many of the VTIP vessels they received would have likely been abandoned if the VTIP program had not been available. In state fiscal years 2012 and 2013, eleven agencies requested \$260,000, which exceeded the available \$150,000 by \$110,000.

VTIP's success is a credit to the DBW and should be extended.

#### **Recommendation**

Staff recommends that BCDC vote to support SB 122.

**Introduced by Senator Lieu**

January 18, 2013

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An act to amend Section 526.1 of, and to amend and repeal Sections 525 and 526 of, the Harbors and Navigation Code, relating to vessels.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 122, as introduced, Lieu. Vessels: abandonment: abatement.

Existing law makes it an infraction punishable by a maximum \$3,000 fine, and until January 1, 2014, a minimum \$1,000 fine for a person to abandon a vessel upon a public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, except for the urgent and immediate concern for the safety of those aboard the vessel. Existing law authorizes a public agency to sell or otherwise dispose of certain vessels that are unseaworthy derelict or hulk, or abandoned property removed from a navigable waterway, as specified, if the public agency removed or caused the removal of the property, subject to specified conditions, including certain notice requirements and that the property has been appraised by disinterested persons for an estimated value of less than \$2,000. Except, until January 1, 2014, a surrendered vessel, as defined, may be disposed of immediately upon acceptance by a public agency and is not subject to the specified conditions.

This bill would delete the January 1, 2014, repeal date of certain above-described provisions and delete alternative provisions that were to become operative on January 1, 2014, which would have reduces the minimum fine to \$500 and eliminated the exception for a surrendered vessel. The bill would also delete an obsolete reporting requirement relating to the department's duty to track and report to specified legislative committees on the number of surrendered vessels accepted

by a public agency between January 1, 2010, and January 1, 2013, pursuant to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 525 of the Harbors and Navigation Code,  
2 as amended by Section 1 of Chapter 416 of the Statutes of 2009,  
3 is amended to read:

4 525. (a) Except for the urgent and immediate concern for the  
5 safety of those aboard a vessel, a person shall not abandon a vessel  
6 upon a public waterway or public or private property without the  
7 express or implied consent of the owner or person in lawful  
8 possession or control of the property.

9 (b) The abandonment of a vessel in a manner as provided in  
10 subdivision (a) is prima facie evidence that the last registered  
11 owner of record, not having notified the appropriate registration  
12 or documenting agency of any relinquishment of title or interest  
13 therein, is responsible for the abandonment and is thereby liable  
14 for the cost of the removal and disposition of the vessel.

15 (c) A violation of this section is an infraction and shall be  
16 punished by a fine of not less than one thousand dollars (\$1,000),  
17 nor more than three thousand dollars (\$3,000). In addition, the  
18 court may order the defendant to pay to the agency that removes  
19 and disposes of the vessel the actual costs incurred by the agency  
20 for that removal and disposition.

21 (d) Fines imposed and collected pursuant to this section shall  
22 be allocated as follows:

23 (1) (A) Eighty percent of the moneys shall be deposited in the  
24 Abandoned Watercraft Abatement Fund, which is hereby created  
25 as a special fund. Moneys in the fund shall be used exclusively,  
26 upon appropriation by the Legislature, for grants to be awarded  
27 by the department to local agencies for the abatement, removal,  
28 storage, and disposal as public nuisances of any abandoned  
29 property as described in Section 522 or for the disposal of  
30 surrendered vessels as defined in Section 526.1, wrecked or  
31 dismantled vessels, or parts thereof, or any other partially  
32 submerged objects that pose a substantial hazard to navigation,  
33 from navigable waterways or adjacent public property, or private

1 property with the landowner's consent. These grants shall not be  
2 utilized for abatement, removal, storage, or disposal of commercial  
3 vessels.

4 (B) In evaluating a grant request submitted by a local agency  
5 pursuant to subparagraph (A), the department shall place great  
6 weight on the following two factors:

7 (i) The existence of an active local enforcement program to  
8 control and prevent the abandonment of watercraft within the local  
9 agency's jurisdiction.

10 (ii) The existence of a submerged navigational hazard abatement  
11 plan at the local level that provides for the control or abatement  
12 of water hazards, including, but not limited to, abandoned  
13 watercraft, wrecked watercraft, hazardous floating debris,  
14 submerged vessels and objects, and abandoned piers and pilings.

15 (C) A grant awarded by the department pursuant to subparagraph  
16 (A) shall be matched by a 10-percent contribution from the local  
17 agency receiving the grant.

18 (D) As a condition of receiving grant funding pursuant to this  
19 paragraph, a local agency shall report to the department data, as  
20 deemed appropriate by the department, regarding abandoned and  
21 surrendered vessels removed or anticipated for removal pursuant  
22 to this article.

23 (2) Twenty percent shall be allocated as set forth in Section  
24 1463.001 of the Penal Code.

25 (e) The state shall not assume liability for any injuries or  
26 damages to a person or entity, public or private, connected to or  
27 resulting from the processing or disposal of a surrendered vessel,  
28 as defined in Section 526.1.

29 (f) The department may adopt rules and regulations for the  
30 purpose of administering this section.

31 ~~(g) This section shall remain in effect only until January 1, 2014,~~  
32 ~~and as of that date is repealed, unless a later enacted statute, that~~  
33 ~~is enacted before January 1, 2014, deletes or extends that date.~~

34 SEC. 2. Section 525 of the Harbors and Navigation Code, as  
35 added by Section 2 of Chapter 416 of the Statutes of 2009, is  
36 repealed.

37 ~~525. (a) Except for the urgent and immediate concern for the~~  
38 ~~safety of those aboard a vessel, a person shall not abandon a vessel~~  
39 ~~upon a public waterway or public or private property without the~~

1 ~~express or implied consent of the owner or person in lawful~~  
2 ~~possession or control of the property.~~

3 ~~(b) The abandonment of a vessel in a manner as provided in~~  
4 ~~subdivision (a) is prima facie evidence that the last registered~~  
5 ~~owner of record, not having notified the appropriate registration~~  
6 ~~or documenting agency of any relinquishment of title or interest~~  
7 ~~therein, is responsible for the abandonment and is thereby liable~~  
8 ~~for the cost of the removal and disposition of the vessel.~~

9 ~~(c) A violation of this section is an infraction and shall be~~  
10 ~~punished by a fine of not less than five hundred dollars (\$500);~~  
11 ~~nor more than three thousand dollars (\$3,000). In addition, the~~  
12 ~~court may order the defendant to pay to the agency that removes~~  
13 ~~and disposes of the vessel the actual costs incurred by the agency~~  
14 ~~for that removal and disposition.~~

15 ~~(d) Fines imposed and collected pursuant to this section shall~~  
16 ~~be allocated as follows:~~

17 ~~(1) (A) Eighty percent of the moneys shall be deposited in the~~  
18 ~~Abandoned Watercraft Abatement Fund, which is hereby created~~  
19 ~~as a special fund. Moneys in the fund shall be used exclusively,~~  
20 ~~upon appropriation by the Legislature, for grants to be awarded~~  
21 ~~by the department to local agencies for the abatement, removal,~~  
22 ~~storage, and disposal as public nuisances of any abandoned,~~  
23 ~~wrecked, or dismantled vessels, or parts thereof, or any other~~  
24 ~~partially submerged objects that pose a substantial hazard to~~  
25 ~~navigation, from navigable waterways or adjacent public property,~~  
26 ~~or private property with the landowner's consent. These grants~~  
27 ~~shall not be utilized for abatement, removal, storage, or disposal~~  
28 ~~of commercial vessels.~~

29 ~~(B) In evaluating a grant request submitted by a local agency~~  
30 ~~pursuant to subparagraph (A), the department shall place great~~  
31 ~~weight on the following two factors:~~

32 ~~(i) The existence of an active local enforcement program to~~  
33 ~~control and prevent the abandonment of watercraft within the local~~  
34 ~~agency's jurisdiction.~~

35 ~~(ii) The existence of a submerged navigational hazard abatement~~  
36 ~~plan at the local level that provides for the control or abatement~~  
37 ~~of water hazards, including, but not limited to, abandoned~~  
38 ~~watercraft, wrecked watercraft, hazardous floating debris,~~  
39 ~~submerged vessels and objects, and abandoned piers and pilings.~~

1 ~~(C) A grant awarded by the department pursuant to subparagraph~~  
2 ~~(A) shall be matched by a 10-percent contribution from the local~~  
3 ~~agency receiving the grant.~~

4 ~~(2) Twenty percent shall be allocated as set forth in Section~~  
5 ~~1463.001 of the Penal Code.~~

6 ~~(e) This section shall become operative on January 1, 2014.~~

7 SEC. 3. Section 526 of the Harbors and Navigation Code, as  
8 amended by Section 3 of Chapter 416 of the Statutes of 2009, is  
9 amended to read:

10 526. (a) Notwithstanding any other provision of law, any  
11 wrecked property that is an unseaworthy derelict or hulk,  
12 abandoned property as described in Section 522, or property  
13 removed from a navigable waterway pursuant to Section 523 or  
14 524 that is an unseaworthy derelict or hulk, may be sold or  
15 otherwise disposed of by the public agency that removed or caused  
16 the removal of the property pursuant to this section, subject to the  
17 following conditions, except a surrendered vessel, as defined in  
18 Section 526.1, may be disposed of immediately upon acceptance  
19 by a public agency and is not subject to the following conditions:

20 (1) The property has been appraised by disinterested persons,  
21 and has an estimated value of less than two thousand dollars  
22 (\$2,000).

23 (2) There is no discernable registration, license, hull  
24 identification number, or other identifying insignia on the property,  
25 or the Department of Motor Vehicles is unable to produce any  
26 record of the registered or legal owners or lienholders.

27 (3) Not less than 72 hours before the property was removed,  
28 the peace officer or authorized public employee securely attached  
29 to the property a distinctive notice stating that the property would  
30 be removed by the public agency.

31 (4) Within 48 hours after the removal, excluding weekends and  
32 holidays, the public agency that removed or caused the removal  
33 of the property sent notice of the removal to the registered and  
34 legal owners, if known or discovered subsequent to the removal,  
35 at their addresses of record with the Department of Motor Vehicles,  
36 and to any other person known to have an interest in the property.  
37 A notice sent by the public agency shall be sent by certified or  
38 first-class mail.

39 (5) If the public agency is unable to locate the registered and  
40 legal owners of the property or persons known to have an interest

1 in the property as provided in paragraph (4), the public agency  
2 published, or caused to be published, the notice of removal for at  
3 least two weeks in succession in one or more daily newspapers  
4 circulated in the county.

5 (b) The notice of removal required by paragraphs (3) to (5),  
6 inclusive, of subdivision (a) shall state all of the following:

7 (1) The name, address, and telephone number of the public  
8 agency providing the notice.

9 (2) A description of the property removed.

10 (3) The location from which the property is to be or was  
11 removed.

12 (4) The location of the intended or actual place of storage.

13 (5) The authority and purpose for removal of the property.

14 (6) A statement that the property may be claimed and recovered  
15 within 15 days of the date the notice of removal was issued  
16 pursuant to paragraph (4) or (5) of subdivision (a), whichever is  
17 later, after payment of any costs incurred by the public agency  
18 related to salvage and storage of the property, and that following  
19 the expiration of the 15-day period, the property will be sold or  
20 otherwise disposed of by the public agency.

21 (7) A statement that the registered or legal owners or any other  
22 person known to have an interest in the property has the  
23 opportunity for a poststorage hearing before the public agency that  
24 removed, or caused the removal of, the property to determine the  
25 validity of the removal and storage if a request for a hearing is  
26 made in person or in writing to that public agency within 10 days  
27 from the date of notice; that if the registered or legal owners or  
28 any other person known to have an interest in the property disagree  
29 with the decision of the public agency, the decision may be  
30 reviewed pursuant to Section 11523 of the Government Code; and  
31 that during the time of the initial hearing, or during the time the  
32 decision is being reviewed pursuant to Section 11523 of the  
33 Government Code, the vessel in question shall not be sold or  
34 otherwise disposed of.

35 (c) (1) Any requested hearing shall be conducted within 48  
36 hours of the time the request for a hearing is received by the public  
37 agency, excluding weekends and holidays. The public agency that  
38 removed the vehicle may authorize its own officers or employees  
39 to conduct the hearing, but the hearing officer shall not be the same  
40 person who directed the removal and storage of the property.



1 (2) The failure of either the registered or legal owners or any  
2 other person known to have an interest in the property to request  
3 or attend a scheduled hearing shall not affect the validity of the  
4 hearing.

5 (d) The property may be claimed and recovered by its registered  
6 and legal owners, or by any other person known to have an interest  
7 in the property, within 15 days of the date the notice of removal  
8 was issued pursuant to paragraph (4) or (5) of subdivision (a),  
9 whichever is later, after payment of any costs incurred by the public  
10 agency related to salvage and storage of the property.

11 (e) The property may be sold or otherwise disposed of by the  
12 public agency not less than 15 days from the date the notice of  
13 removal was issued pursuant to paragraph (4) or (5) of subdivision  
14 (a), whichever is later, or the date of actual removal, whichever is  
15 later.

16 (f) The proceeds from the sale of the property, after deducting  
17 expenses for salvage, storage, sales costs, and any property tax  
18 liens, shall be deposited in the Abandoned Watercraft Abatement  
19 Fund for grants to local agencies, as specified in paragraph (1) of  
20 subdivision (d) of Section 525.

21 (g) It is the intent of the Legislature that this section shall not  
22 be construed to authorize the lien sale or destruction of any  
23 seaworthy vessel, other than a surrendered vessel as defined in  
24 Section 526.1, that is currently registered and operated in  
25 accordance with local, state, and federal law.

26 ~~(h) This section shall remain in effect only until January 1, 2014,~~  
27 ~~and as of that date is repealed, unless a later enacted statute, that~~  
28 ~~is enacted before January 1, 2014, deletes or extends that date.~~

29 SEC. 4. Section 526 of the Harbors and Navigation Code, as  
30 added by Section 4 of Chapter 416 of the Statutes of 2009, is  
31 repealed.

32 ~~526. (a) Notwithstanding any other provision of law, any~~  
33 ~~wrecked property that is an unseaworthy derelict or hulk, or~~  
34 ~~abandoned property as described in Section 522, property removed~~  
35 ~~from a navigable waterway pursuant to Section 523 or 524 that is~~  
36 ~~an unseaworthy derelict or hulk, may be sold or otherwise disposed~~  
37 ~~of by the public agency that removed or caused the removal of the~~  
38 ~~property pursuant to this section, subject to the following~~  
39 ~~conditions:~~

1     ~~(1) The property has been appraised by disinterested persons,~~  
2     ~~and has an estimated value of less than two thousand dollars~~  
3     ~~(\$2,000).~~

4     ~~(2) There is no discernable registration, license, hull~~  
5     ~~identification number, or other identifying insignia on the property,~~  
6     ~~or the Department of Motor Vehicles is unable to produce any~~  
7     ~~record of the registered or legal owners or lienholders.~~

8     ~~(3) Not less than 72 hours before the property was removed,~~  
9     ~~the peace officer or authorized public employee securely attached~~  
10    ~~to the property a distinctive notice stating that the property would~~  
11    ~~be removed by the public agency.~~

12    ~~(4) Within 48 hours after the removal, excluding weekends and~~  
13    ~~holidays, the public agency that removed or caused the removal~~  
14    ~~of the property sent notice of the removal to the registered and~~  
15    ~~legal owners, if known or discovered subsequent to the removal,~~  
16    ~~at their addresses of record with the Department of Motor Vehicles,~~  
17    ~~and to any other person known to have an interest in the property.~~  
18    ~~A notice sent by the public agency shall be sent by certified or~~  
19    ~~first-class mail.~~

20    ~~(5) If the public agency is unable to locate the registered and~~  
21    ~~legal owners of the property or persons known to have an interest~~  
22    ~~in the property as provided in paragraph (4), the public agency~~  
23    ~~published, or caused to be published, the notice of removal for at~~  
24    ~~least two weeks in succession in one or more daily newspapers~~  
25    ~~circulated in the county.~~

26    ~~(b) The notice of removal required by paragraphs (3) to (5),~~  
27    ~~inclusive, of subdivision (a) shall state all of the following:~~

28    ~~(1) The name, address, and telephone number of the public~~  
29    ~~agency providing the notice.~~

30    ~~(2) A description of the property removed.~~

31    ~~(3) The location from which the property is to be or was~~  
32    ~~removed.~~

33    ~~(4) The location of the intended or actual place of storage.~~

34    ~~(5) The authority and purpose for removal of the property.~~

35    ~~(6) A statement that the property may be claimed and recovered~~  
36    ~~within 15 days of the date the notice of removal was issued~~  
37    ~~pursuant to paragraph (4) or (5) of subdivision (a), whichever is~~  
38    ~~later, after payment of any costs incurred by the public agency~~  
39    ~~related to salvage and storage of the property, and that following~~

1 the expiration of the 15-day period, the property will be sold or  
2 otherwise disposed of by the public agency.

3 (7) A statement that the registered or legal owners or any other  
4 person known to have an interest in the property have the  
5 opportunity for a poststorage hearing before the public agency that  
6 removed, or caused the removal of, the property to determine the  
7 validity of the removal and storage if a request for a hearing is  
8 made in person or in writing to that public agency within 10 days  
9 from the date of notice; that if the registered or legal owners or  
10 any other person known to have an interest in the property disagree  
11 with the decision of the public agency, the decision may be  
12 reviewed pursuant to Section 11523 of the Government Code; and  
13 that during the time of the initial hearing, or during the time the  
14 decision is being reviewed pursuant to Section 11523 of the  
15 Government Code, the vessel in question shall not be sold or  
16 otherwise disposed of.

17 (e) (1) Any requested hearing shall be conducted within 48  
18 hours of the time the request for a hearing is received by the public  
19 agency, excluding weekends and holidays. The public agency that  
20 removed the vehicle may authorize its own officers or employees  
21 to conduct the hearing, but the hearing officer shall not be the same  
22 person who directed the removal and storage of the property.

23 (2) The failure of either the registered or legal owners or any  
24 other person known to have an interest in the property to request  
25 or attend a scheduled hearing shall not affect the validity of the  
26 hearing.

27 (d) The property may be claimed and recovered by its registered  
28 and legal owners, or by any other person known to have an interest  
29 in the property, within 15 days of the date the notice of removal  
30 was issued pursuant to paragraph (4) or (5) of subdivision (a),  
31 whichever is later, after payment of any costs incurred by the public  
32 agency related to salvage and storage of the property.

33 (e) The property may be sold or otherwise disposed of by the  
34 public agency not less than 15 days from the date the notice of  
35 removal was issued pursuant to paragraph (4) or (5) of subdivision  
36 (a), whichever is later, or the date of actual removal, whichever is  
37 later.

38 (f) The proceeds from the sale of the property, after deducting  
39 expenses for salvage, storage, sales costs, and any property tax  
40 liens, shall be deposited in the Abandoned Watercraft Abatement

1 Fund for grants to local agencies, as specified in paragraph (1) of  
2 subdivision (d) of Section 525.

3 ~~(g) It is the intent of the Legislature that this section shall not~~  
4 ~~be construed to authorize the lien sale or destruction of any~~  
5 ~~seaworthy vessel that is currently registered and operated in~~  
6 ~~accordance with local, state, and federal law.~~

7 ~~(h) This section shall become operative on January 1, 2014.~~

8 SEC. 5. Section 526.1 of the Harbors and Navigation Code is  
9 amended to read:

10 526.1. ~~(a)~~ For purposes of this article, “surrendered vessel”  
11 means a recreational vessel that the verified titleholder has  
12 willingly surrendered to a willing public agency under both of the  
13 following conditions:

14 ~~(1)~~

15 (a) The public agency has determined, in its sole discretion,  
16 that the vessel is in danger of being abandoned, and therefore has  
17 a likelihood of causing environmental degradation or becoming a  
18 hazard to navigation.

19 ~~(2)~~

20 (b) The decision to accept a vessel is based solely on the  
21 potential of the vessel to likely be abandoned and cause  
22 environmental degradation or become a hazard to navigation.

23 ~~(b) The department shall track the number of surrendered vessels~~  
24 ~~accepted by a public agency that disposes of surrendered vessels~~  
25 ~~using grant funds from the Abandoned Watercraft Abatement Fund~~  
26 ~~between January 1, 2010, and January 1, 2013. The department~~  
27 ~~shall also track the total expenditure from the fund for surrendered~~  
28 ~~vessel abatement during the same period. On or before July 1,~~  
29 ~~2013, the department shall report on the information gathered~~  
30 ~~between January 1, 2010, and January 1, 2013, to the Assembly~~  
31 ~~Committee on Transportation and the Senate Committee on Natural~~  
32 ~~Resources and Water, along with any recommendations to revise~~  
33 ~~or continue the use of fund moneys for these purposes.~~

34 (c) This section shall remain in effect only until January 1, 2014,  
35 and as of that date is repealed, unless a later enacted statute, that  
36 is enacted before January 1, 2014, deletes or extends that date.